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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,031	06/24/2003	David Alan Weyandt	1-679	1760

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EXAMINER


MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,031	Applicant(s) WEYANDT, DAVID ALAN	
	Examiner Naschica S Morrison	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>62403</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for serial number 10/603,031, Component Mounting Track, filed on June 24, 2003. Claims 1-10 are pending.

Specification

The disclosure is objected to because of the following informalities: on page 4, line 16, "46" should be --40--. Appropriate correction is required.

Claim Objections

Claim 7 is objected to because of the following informalities: on line 6, "on" should be --one--. Appropriate correction is required.

Claim 10 is objected to because of the following informalities: on line 1, "rail" should be --track--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly

Art Unit: 3632

connected, to make and/or use the invention. The instant specification and drawings do not teach or disclose a plurality of apertures in the wall (14).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation " said rail apertures " in line 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding Claim 9, line 1 states that the claim depends from itself and is of improper form. Therefore, the claim has not been treated for further prosecution on the merits. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Admitted Prior Art of Fig. 1 (APA) in view of U.S. Patent 6,536,730 to Baer. Regarding claims 1-3, 7 and 10, APA discloses a mounting

Art Unit: 3632

track comprising an integral body of uniform transverse cross section including: a flat foot (16) having spaced mounting apertures (18); a component mounting rail (12) comprised of a flat base extending parallel to the foot (16), upwardly extending side walls, and flanges extending outwardly from the tops of the side walls; and a wall (14) extending from one side of the foot (16) and joining the base of the rail (12) adjacent one side so as to be laterally offset from the center of rail base and foot (see Fig. 1). The APA does not teach the rail base including a series of apertures larger than and positioned directly above the foot mounting apertures. Baer teaches a mounting member (100) comprising a top mounting portion (104) and a mounting foot (102), wherein the top mounting portion includes an aperture (114) larger than and positioned directly about a foot mounting aperture (112) and wherein a mounting tool (146) and fastener (142) may be freely extended through the aperture (114) to drive the fastener through the mounting aperture (112). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mounting rail of APA by including apertures in the rail base that are larger than the foot mounting apertures and positioning the foot mounting apertures adjacent to the wall (14) so as to be directly beneath the rail base apertures because one would have been motivated to allow for easier installation of the mounting track on the support surface as taught by Baer. Regarding claims 4 and 8, the APA in view of Baer does not teach the foot mounting apertures being circular or rectangular and the rail base apertures being rectangular. However it would have been obvious to have formed the mounting apertures and base apertures to be of

Art Unit: 3632

various shapes including circular and rectangular since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Regarding claim 5, the APA does not teach the mounting track being formed of extruded aluminum; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mounting track to be formed of extruded aluminum because one would have been motivated to provide a less expensive, lightweight mounting device and further since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Regarding claim 6, the APA in view of Baer does not teach the rail having a width of about 1.37 inches from flange tip to flange tip and a height of about 2.26 inches or the rail base apertures being about .75 inches long and .50 inches wide or the mounting apertures being about .50 inches long and about .25 inches wide; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mounting track to have the approximate dimensions described above since it has been held that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


Art Unit: 3632

5023404 to Hudson et al; 5813751 to Shaffer; 5833417 to Sargent et al;
5957819 to Cortesi; 6484997 to Edwards et al; 6521837 to Hilgert et al.

The above references disclose mounting supports relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
9/13/04


RAMON O. RAMIREZ
PRIMARY EXAMINER